

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

FIRST PREMIER CAPITAL LLC	)	
	)	Case No. 1:11-CV-237
Plaintiff,	)	
	)	Chief Judge Sandra S. Beckwith
v.	)	
	)	<b>JOINT DISCOVERY PLAN</b>
VONLEHMAN & COMPANY, INC.,	)	
BRIAN MALTHOUSE and	)	
BRANDON POWERS	)	
	)	
Defendants.	)	

**JOINT DISCOVERY PLAN**

NOW COME Plaintiff FIRST PREMIER CAPITAL LLC (“FPC”) and Defendants VONLEHMAN & COMPANY, INC. (“VonLehman”), BRIAN MALTHOUSE (“Malthouse”) and BRANDON POWERS (“Powers”) (collectively, the “Defendants”), by and through their respective counsel, and hereby jointly submit to the Court this Joint Discovery Plan, pursuant to the Court’s Trial Procedure Order. The parties conducted their discovery conference on June 27, 2011.

**A. MAGISTRATE JUDGE CONSENT**

The Parties do not unanimously consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636 (c).

**B. RULE 26(a) DISCLOSURES**

The Parties will exchange pre-discovery disclosures required by Rule 26(a)(1) by July 22, 2011.

### **C. DISCOVERY ISSUES AND DATES**

1. Discovery will need to be conducted on the issues of: (1) whether the Defendants are liable to FPC for professional negligence; (2) any defenses Defendants may assert; and (3) whether Third Party Defendants are liable to FPC and/or Defendants for their alleged tortious acts.
2. The parties recommend that discovery need not be bifurcated.
3. Disclosure and report of Plaintiff's expert(s) by January 16, 2012
4. Disclosure and report of Defendants' expert(s) by February 16, 2012
5. Disclosure and report of rebuttal expert(s) by March 1, 2012
6. Disclosure of non-expert (fact) witnesses by January 16, 2012
7. Discovery cutoff: April 16, 2012
8. Anticipated discovery problems: None at this time.

### **D. LIMITATIONS ON DISCOVERY**

Changes in the limitations on discovery: None.

### **E. PROTECTIVE ORDER**

The parties currently do not anticipate the need for a protective order. If the parties subsequently deem that one is necessary, they will submit a joint proposed order to the Court. Such order will be in compliance with *Procter & Gamble Co. v. Bankers Trust Co.*, 78 F. 3d 219 (6th Cir. 1996).

### **F. SETTLEMENT**

A settlement demand has been made. A response has been made.

### **G. MOTION DEADLINES**

1. Motion to amend the pleadings and/or add parties by November 1, 2011.

2. Motions relative to the pleadings by January 16, 2012.
3. Dispositive motions by May 7, 2012.

#### **H. OTHER MATTERS PERTINENT TO MANAGEMENT OF THIS LITIGATION**

Defendants filed a Third Party Complaint on May 23, 2011. Two Third Party Defendants, George Ferguson and Machine Tools Direct, Inc., have responded through counsel, indicating that they have filed for bankruptcy. The remaining seven Third Party Defendants have not replied.

FIRST PREMIER CAPITAL LLC

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